



## NH DIVISION OF LIQUOR ENFORCEMENT AND LICENSING ADMINISTRATION & OPERATIONS MANUAL

**CHAPTER:** O-405

**SUBJECT:** Property Control

**REVISED:** August 14, 2009

**EFFECTIVE DATE:** September 28, 2007

**DISTRIBUTION:** Sworn Personnel

**APPROVED:** *Director Eddie Edwards*

### PURPOSE

To establish guidelines and procedures for maintaining the integrity of the evidentiary chain of custody.

### POLICY

It is the policy of the Division of Enforcement to ensure that evidence in its custody can be properly secured and stored, readily retrieved, and that any changes in its custody have been properly and fully documented.

### DEFINITIONS

The following definitions refer to classification used in processing and disposing of property and evidence that comes under the control of the Division of Enforcement.

- A. Chain of Evidence: The continuity of the custody of physical evidence – from time of original collection to final disposal-which may be introduced in a judicial proceeding.
- B. Disposal: Property that is determined to be available for immediate destruction or acquired for department use.
- C. Evidence: All items connected at the scene of a crime or suspected offense to assist in the prosecution of the perpetrator.
- D. Evidence Custodian: Division member accountable for control and maintenance of all evidence and property accepted by or stored in the Division's evidence room.
- E. Evidence Room: Facilities utilized by the Division of Enforcement to store evidence and property.
- F. Found Property: Property that has been lost or abandoned and is not connected with a known criminal offense or has no evidentiary value.
- G. Impounding Officer: The member of the Division of Enforcement who initially receives the evidence and initiates the chain of custody.

- H. Physical Evidence: Any substance or material found or recovered in connection with a criminal investigation.
- I. Property: All tangible personal items which are non-evidentiary and classified as:
  - a) Abandoned Property: Property with no identifiable owner, that has been disposed of on public property in a wrecked, inoperative or partially dismantled condition or which has no apparent intrinsic value to the rightful owner.
  - b) Forfeiture Property: Property seized by the Division, in accordance with State and Federal Statutes, during the commission of a felony.
  - c) Lost Property: Property that may or may not have an identifiable owner or information leading to discovery of the owner and which has been mislaid on public property in a substantially operable condition or which has an apparent intrinsic value to the rightful owner.
- J. Recovered: Stolen property that has been recovered and is being held as evidence or as authorized by the investigating officer, county attorney, attorney general or judge and is available for release to the rightful owner.
- K. Safekeeping: Non-evidentiary property that is placed in the custody of the NH Division of Enforcement for temporary protection, such as firearms at the scene of a domestic disturbance.
- L. Safety of Others: When officers to prevent its possible use for criminal purposes seize property. (In cases of mental instability.)
- M. Stored: Property that has no evidentiary value and is available for immediate release to the owner.

#### I. PROPERTY/EVIDENCE STORAGE

- A. Storage Room: The primary storage area for all evidence and property is located at 10 Commercial Street, Concord, New Hampshire.
  - a) The storage of property or evidence in desks, lockers, or other areas is prohibited. The CEO must authorize any exception.
  - b) Whenever property or evidence is stored in other areas, a property report shall be submitted to the Property/Evidence Custodian, providing a location for the item.
- B. Delayed entry into property control system: In the event that property/evidence seized at such time or distance from the primary storage area that it is impractical for it to be transported to Division Headquarters, an Investigator's cruiser may be used as temporary secure storage only under the following guidelines:
  - a) The Investigator shall make verbal notification to the on-duty supervisor of the use of his cruiser for temporary secure storage.
  - b) Cruisers will not be used for temporary secure storage of property/evidence if:
    - 1) The property/evidence is a hazardous or explosive material;
    - 2) The property/evidence may deteriorate in condition by such storage;
    - 3) The property/evidence is to be kept from extremes in temperature.
  - c) Except in cases of extenuating circumstances, use of a cruiser as temporary secure storage will not exceed 72 hours. Any extension of this time limit will require the approval of the CEO and evidence custodian who will document the reason for the extension in the Evidence Registration Log (ACCESS database)

## II. ACCESS

The property storage room is protected by Capital Alarm Company. Only members of the Division of Enforcement authorized by the CEO may enter the evidence room. Authorized personnel are assigned access-coded keys. A log shall be kept by the evidence custodian identifying each authorized member entering the room. All visitors who enter the storage area(s) must sign their name on a visitor log recording the date, time and purpose of the visit.

## III. PROCEDURES

### A. Processing Evidence

1. Any member of this agency who has evidence to be placed in the evidence room shall make an inventory of that evidence at the location it was found or recovered. The inventory shall include the following information for all items of evidence.
  - a) Description of the item (including make, model number, and serial number, if any);
  - b) Source (from whom or location obtained);
  - c) Name of person primarily responsible for collecting the item or items.
2. The impounding officer shall properly handle, mark, and package all evidence, and transport all physical evidence to the evidence room or other authorized secure location as soon as practical.
3. The property/evidence custodian shall assign a storage location to each item, recording this information on the evidence sheet and tag.
4. If the evidence is delivered to the main evidence room after normal business hours and/or the custodian(s) are not readily available, the following procedure shall be adhered to:
  - 1) All property shall be placed into the input receptacles located outside the evidence room for temporary storage.
  - 2) The officer delivering and leaving the property in the input receptacles shall place an IMC property tag on the property being submitted.
  - 3) At the earliest possible time, the custodian shall take custody of the property; logging said property into the permanent storage area.
  - 4) The custodian shall complete all required documentation for admission to the storage area.

### B. Storage of Evidence

1. The evidence custodian shall assign a storage location to each item of evidence or property, recording the information on the evidence receipt and evidence tag.
2. The custodian shall enter all information into the property component of IMC.
3. In the event that evidence is delivered to HQ and the evidence custodian is unavailable, the following procedure shall be followed:
  - The temporary storage of evidence at HQ shall be located in the booking area wall lockers. The wall lockers are secured to the floor and wall. Each locker has a key for securing the items placed into the locker. The key to the locker shall be deposited into the mail slot located outside the squad room after such deposits are made.

- The Investigator shall notify the evidence custodian by voice mail, e-mail or another means that evidence is located in temporary storage.
- The evidence custodian will obtain the locker key upon his next shift and secure evidence/property into the evidence room as soon as applicable.

#### C. Transfers of Custody

1. A written record of all transfers shall be made.
2. Members of this agency who assume custody of evidence from the storage area bear full responsibility for ensuring its security, proper storage, and maintenance, and ready for the retrieval of such evidence upon demand.

#### D. Evidence for Analysis

1. For the purpose of analysis conducted by the NH State Laboratory, the officer requesting analysis shall notify the custodian 24 hours in advance of the pick up.
2. The requesting officer shall sign for and accept receipt of the property for analysis.
3. Upon completion of the analysis the officer shall retrieve the property from the laboratory, returning it to the custodian for re-admittance to the storage area.
4. In instances when it is deemed inconvenient for the officer to retrieve and deliver the property to the laboratory for analysis, the custodian with the CEO's approval may transfer the items to the laboratory.
5. The report of analysis shall be forwarded to the officer submitting the evidence for analysis.

#### E. Return of Property

1. Property shall only be released to the owner under the following guidelines
  - 1) Only when the property is deemed unnecessary for evidentiary purposes in an investigation;
  - 2) With the authority of the Chief Executive Officer;
  - 3) Upon proper identification of the rightful owner through photo identification;
  - 4) No property shall be released without the signature of the person/owner receiving the property.

#### F. Release for Court Proceedings

1. For the purpose of court proceedings, the officer requiring the evidence shall notify the custodian 24 hours in advance of the pick up.
2. The requesting officer shall sign for and accept receipt of the evidence.
3. Upon completion of the court proceeding the officer shall return the evidence to the custodian for re-admittance to the storage area within 24 hours after the conclusion of trial.
4. In instances when it is deemed inconvenient for the officer to pick or return the evidence, the custodian with the CEO's approval may transfer the evidence from or back to the storage area.
5. All transfer forms shall be completed as required.

6. The final disposition shall be forwarded to HQ, no later than 48 hours after the conclusion of trial, with authorization for destruction if applicable.

#### G. Disposal of Evidence-Destruction of Evidence

1. When no longer needed for evidentiary purposes, all evidence, with the exception of firearms and contraband, shall be returned to its lawful owner.
2. A standardized Motion to Destroy Evidence shall be used by the officer in the court of jurisdiction. NO EVIDENCE SHALL BE DESTROYED unless proper documentation is submitted to the evidence custodian. It shall be the responsibility of the prosecuting officer to prepare, submit to the court and submit the signed motion to HQ as soon as applicable.
3. All drug paraphernalia contraband shall be destroyed by the Evidence Custodian at a location authorized by the CEO unless:
  - 1) Court order authorizes use of the item by this agency.
4. On the date of destruction, the evidence custodian shall monitor the loading of the items to be destroyed, accompany the items to the destruction facility. The evidence custodian shall physically watch the evidence be destroyed.
5. All other evidence to be destroyed shall be done at the Division of Enforcement headquarters under the direction of the evidence custodian.
6. A report shall be submitted to the CEO outlining the following information;
  - 1) The date, time, and location of the destruction;
  - 2) An inventory of the items destroyed;

#### H. Forfeiture of Property or Evidence Seized.

1. If property is seized with the intentions of forfeiting such property, the Investigator shall:
  - 1) Prepare and ensure delivery of a seven-day letter to the defendant, case file, and evidence custodian.
  - 2) The evidence custodian shall notify the CEO or his designee of the nature of the property to be forfeited.
  - 3) The CEO or his designee shall determine whether the forfeiture shall be processed through the NH Attorney General's Office or the U.S. Drug Enforcement Administration.
  - 4) Any assets seized as a result of an operation involving the New Hampshire National Guard shall be treated as federally seized property. The assets will be processed by NHLC pursuant to Federal law and in accordance with the policies and procedures set forth by NHLC. Equitable sharing of federally forfeited property will be disbursed in accordance with the U.S. Department of the Treasury policy as set forth in the Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies.